

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

NELSON VERAS,  
Plaintiff-Petitioner,  
v.  
UNITED STATES OF AMERICA,  
Defendant-Respondent.

NOTICE

16CV 9699

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Crim. Case No. 0208 1:15 CR 551-04 (AJN)  
Crim. Case No. 0208 1:15 CR 651-04 (AJN)

Please take "NOTICE" that on or about December 05, 2016, plaintiff, mailed this notice to the United States District Court Southern District N.Y. and to all the parties involved in this matter "NOTICE" that Nelson Veras, will and hereby does,, move, to vacate, set aside, and/or otherwise correct his illegal sentence and conviction filed against him on both this matter and in 15-CR-00651-04 (AJN) to run concurrently. The term of imprisonment is to include 60 months to be served concurrently and 36 months to run consecutively with the plaintiff prior undischarged federal sentence in 14-CR-00468-03(SAS), which he is currently serving. see imposition of judgment dated June 1, 2016, before Hon. Alison J. Nathan, U.S.D.J.

Veras was sentenced of Conspiracy to commit a Hobbs Act robbery in violation of 18 U.S.C. §1951 and 2; using and carrying a firearm during

1  
2  
3 and in relation to a "crime of violence" in violation of 18 U.S.C. §924(c)  
4 (1)(A)(i) "Such sentence shall be " in addition to the punishment provided  
5 provided for such crime of violence or drug trafficking crime and may not  
6 run concurrently with any term of imprisonment imposed for the crime of  
7 violence or drug trafficking crime during which the firearm was used,  
8 carried, or possessed. Though not identical, the definition of "crime of  
9 violence" in §924(c) is substantially similar to the definition of violent  
10 felony under the ACCA.

11 Johnson, 135 S. Ct. at 2557-58. Based on the similarity between  
12 residual clauses in §924(c)(3)(B) and §924(e)(2)(B)(ii), Veras contends  
13 that §924(c)'s residual clause is unconstitutionally vague for the same  
14 reasons the U.S. Supreme Court found §924(e)(2)(B)(ii) to be unconstitu-  
15 tionally vague in Johnson, rendering him "actually innocent" of his  
16 §924(c) conviction.

17 As a result, Veras's 924(c) conviction (1) violates due process;  
18 (2) violates the laws of the United States and results in a fundamental  
19 miscarriage of justice; and (3) was entered in excess of the district court  
20 jurisdiction. Therefore, he is entitled to relief under 28 U.S.C. §2255(a).  
21 Plaintiff petition is timely under 28 U.S.C. §2255(f)(3) and or 2255  
22 (H) because he filed it within the one year of the Supreme Court's decision  
23 in Johnson which established a "newly recognized" right that is "retroactive-  
24 ly applicable to cases on collateral review."

25 s/By: Nelson Veras

26 Nelson Veras

27 RESPECTFULLY SUBMITTED this 05 day of  
28 of December, 2016.

Case 1:16-cv-09699-AM Document 1 Filed 12/09/16 Page 3 of 3  
DECLARED SUBMITTED, this 5 December, 2016, in Jonesville,  
Virginia.

s/By:

Nelson Veras

Declaration:

In accordance with the provisions of §1746 of  
Title 28, United States Code, I, the  
undersigned Nelson Veras, do hereby  
make the following declaration under penalty of perjury  
pertinent to the above-styled cause:  
Executed on this 5th, day of December, 2016.

s/BY:

Nelson Veras

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy  
of the foregoing document was placed in the prison  
USP LEE mailbox for delivery with attached proper  
United States Postal Service, U.S.P.S., First  
Class Mail, this 5th, day of December  
2016

s/By

Nelson Veras

cc: United States Attorneys' Office  
Assistant U.S. Attorney  
Matthew J. Laroche  
One St. Andrew's Plaza  
New York, NY 10007

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